

**IN THE MATTER OF  
JOSEPH SHANE KUNKLE  
PETITIONER**

**\* BEFORE THE DIRECTOR OF  
\* DEPARTMENT OF PLANNING & ZONING  
\* CASE NO. AA-21-013  
\* (10236 NEW FOREST CT)**

\*\*\*\*\*

### **DECISION AND ORDER**

On February 4, 2022, the Designee for the Director of the Department of Planning and Zoning conducted a public hearing to consider the petition of Joseph Shane Kunkle for Administrative Adjustments from Section 108.0.D.4.c(1)(b) of the Zoning Regulations to reduce the required side yard setback from 10 feet to 8 feet to accommodate an addition to an existing house as authorized under the Administrative Adjustment Procedure, Section 100.0.F.1. The notice of the hearing was posted on the subject property in accordance with all applicable regulations. The Petitioner, Joseph Shane Kunkle was present. No one testified in opposition to the petition.

Prior to the introduction of testimony, the following items were incorporated into the record by reference:

1. The Howard County Zoning Regulations.
2. The Subdivision and Land Development Regulations.
3. The Administrative Procedures Act of the Howard County Code.

During the hearing, the following items were introduced as exhibits:

1. Mr. Kunkle asked that the petition submission and associated documents be included as exhibits.

Mr. Conrad, Designee for the Director of the Department of Planning and Zoning, read the Administrative Adjustments criteria from section 130.B.2.a into the record. Mr. Conrad provided a description of the property, the requested adjustment and the R-20 zoning district. Mr. Kunkle concurred with the facts of the DPZ Report.

Mr. Kunkle proceeded to explain how the request complies with the four Administrative Adjustment criteria and summarized the material that was submitted with the petition. The property is located on a cul-de-sac, the house is situated on a "pie" shaped lot, and is encumbered by an easement on the rear of the property. Mr. Kunkle provided testimony and referenced a letter submitted in the original petition regarding HOA approval. The proposed addition was approved, after review and after several modifications, by the Burleigh Manor Section III Homeowners Association Inc..

Based upon the testimony and exhibits presented at the hearing, as well as the plans and materials submitted by the Petitioner as part of the petition, the Director makes the following Findings of Fact and Conclusions of Law:

#### **FINDINGS OF FACT**

1. The Petitioner, Joseph Shane Kunkle, is the owner of the subject property, which is located 10236 New Forest Ct, and is identified as Tax Map 24, Grid 13, Parcel 766, Lot 623 and is part of Burleigh Manor Section 3, Area 6 (the "Property"). The 0.46-acre property is zoned R-20 (Residential: Single).
2. All adjacent parcels are also zoned R-20. The Property is part of a large subdivision that was constructed in 1989.
3. The Property is located on a cul-de-sac resulting in a "pie" shaped lot.
4. The Petitioner proposes to construct a 14'x22' house addition that would encroach 2 feet into the required ten-foot side yard setback. The Petitioner requests an Administrative Adjustment for this encroachment.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Director makes the following Conclusions of Law:

1. The Property is constrained by its location on a cul-de-sac, resulting in an atypical shaped lot. Additionally, the Property is constrained by a drainage and utility easement in the rear of the Property. These unique physical conditions result in practical difficulties in complying with the 10-foot side yard setback requirement.
2. The design of the proposed additional is consistent with overall character of Burleigh Manor Section III homes, which is exclusively single-family detached homes. The proposed addition was reviewed and approved by the Burleigh Manor Section III Homeowners Association Inc. Therefore, the adjustment will not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use or development of adjacent property or be detrimental to the public welfare.
3. The practical difficulties related to the irregular lot shape, side yard setback, and rear drainage easement were not caused by the Petitioner, who purchased the house in 2019.
4. The buildable area of Property is constrained by the irregular lot shape, the side yard setbacks and the rear easement. The proposed addition is consistent with other homes in the area. Additionally, the requested adjustment is 20% of the 10-foot setback, which is not greater than the 20% maximum encroachment allowed. Therefore, the request is the minimum necessary to afford relief within the intent and purpose of

the Zoning Regulations.

### ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 3rd day of March 2022, by the Director of the Department of Planning and Zoning for Howard County, ORDERED that the petition of Joseph Shane Kunkle, for an Administrative Adjustment to Section 108.0.D.4.c(1)(b) of the Zoning Regulations to reduce the required side setback from 10 feet to 8 feet to accommodate an addition to the existing house be and the same is hereby **GRANTED**.

Prepared By:  
The Howard County Department of  
Planning and Zoning

DocuSigned by:  
*Amy Gowan*  
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Amy Gowan, Director  
Department of Planning and Zoning

DocuSigned by:  
*Peter Conrad*  
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Peter G. Conrad, AICP, Director's Designee

Notice: A person aggrieved by this decision may appeal it to the Howard County Hearing Authority within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time, the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Hearing Authority. The person filing the appeal will bear the expense of providing notice and advertising the hearing.